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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,377	11/19/2003	Steven Driediger	1400.1375180	6705

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ROSS D. SNYDER & ASSOCIATES, INC.
PO BOX 164075
AUSTIN, TX 78716-4075

EXAMINER

CHUNG, PHUNG M

ART UNIT	PAPER NUMBER
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2138

DATE MAILED: 06/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/717,377	Applicant(s) DRIEDIGER ET AL.	
	Examiner Phung My Chung	Art Unit 2138	

-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-49 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/19/03</u> . | 6) <input type="checkbox"/> Other: ____. |

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Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

2. Claims 1-42 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over MacKay (4,052,566) in view of Pauwels (EP 1 109 366 A1).

As per claims 1-19, MacKay discloses a first transmission unit counter (40) coupled to a datapath at a first counting location of the data path;

a second transmission unit counter (70) coupled to the datapath at a second counting location of the data path; and

a first datapath unit (10) coupled in the datapath between the first transmission unit counter and the second transmission unit counter. MacKay does not disclose that the first

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counter is for ingress transmission count, the second counter is for egress transmission count and a fault condition indicator for indicating a fault condition when a difference is determined between the ingress transmissstion counter and the egress transmission counter. However, Pauwels discloses that the first counter (6) is for ingress transmission count, the second counter (7) is for egress transmission count and a fault condition indicator for indicating a fault condition when a difference is determined between the ingress transmissstion counter and the egress transmission counter. (See paragraphs (0022), (0026), (0027) and (0039)). Therefore, it would have been obvious to a person of ordinary skill in the art, at the time the invention was made, to incorporate the first ingress counter, the second egress counter and the fault indicator as taught by Pauwels into the first and second counter coupled between the transmission datapath of MacKay for ingress transmission counting, egress transmission counting and indicating fault condition to ensure data is not lost when arriving and when leaving.

As per claims 20-31, 32-42 and 49, these claims are rejected under similar rationale as set forth in claims 1-19.

3. Claims 43-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over MacKay (4,052,566) in view of Pauwels (EP 1 109 366 A1) as applied to claims 1-42 and 49 above, and further in view of Matsunaga et al (6,115,417) .

As per claims 43-48, MacKay discloses a first transmission unit counter (40) coupled to a datapath at a first counting location of the data path;

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a second transmission unit counter (70) coupled to the datapath at a second counting location of the data path; and

a first datapath unit (10) coupled in the datapath between the first transmission unit counter and the second transmission unit counter. MacKay does not disclose that the first counter is for ingress transmission count, the second counter is for egress transmission count and a fault condition indicator for indicating a fault condition when a difference is determined between the ingress transmission counter and the egress transmission counter. However, Pauwels discloses that the first counter (6) is for ingress transmission count, the second counter (7) is for egress transmission count and a fault condition indicator for indicating a fault condition when a difference is determined between the ingress transmission counter and the egress transmission counter. (See paragraphs (0022), (0026), (0027) and (0039)). Therefore, it would have been obvious to a person of ordinary skill in the art, at the time the invention was made, to incorporate the first ingress counter, the second egress counter and the fault indicator as taught by Pauwels into the first and second counter coupled between the transmission datapath of MacKay for ingress transmission counting, egress transmission counting and indicating fault condition to ensure data is not lost when arriving and when leaving. MacKay and Pauwels do not disclose that the first transmission counter and the second transmission counter including a first and second plurality of counters. However, Matsunaga et al disclose a transmission counter set (103) including a plurality of counters (103-1 to 103-m). Therefore, it would have been obvious to a person of ordinary skill in the art, at the time the invention was made, to incorporate the

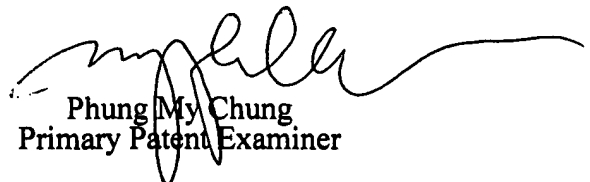
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transmission counter set including a plurality of counters as taught by Matsunaga et al in to the first ingress transmission counter and the second egress transmission counter of MacKay and Pauwels to reduce counting time and to ensure data is not lost when arriving and when leaving.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phung My Chung whose telephone number is 571-272-3818. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert Decady can be reached on 571- 272-3819. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Phung My Chung
Primary Patent Examiner